

FILED
2022 JUL 20
KING COUNTY
SUPERIOR COURT CLERK

CASE #: 22-2-11294-8 KNT

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

Lysyy et ano

Plaintiff/Petitioner,

vs.

22-2-11294-8KNT

☐ SEA
☐ KNT

*Deutsche Bank
International Trust et al*

NO.

Defendant/Respondent.

Complaint

is attached.

STATE OF WASHINGTON

NO.

TATYANA LYSYY, married
VASILIY LYSYY, married who are
each members of a marital community
Plaintiffs

vs.

**COMPLAINT FOR
DAMAGES AND
INJUNCTIVE RELIEF**

DEUTSCHE BANK NATIONAL
TRUST COMPANY AND
DEUTSCHE BANK NATIONAL
TRUST COMPANY trustee, a
foreign corporation, IMPAC
SECURED ASSETS CORP
2005-62, MORTGAGE
PASSTHROUGH
CERTIFICATS SERIES 2007-1,
a foreign corporation; QUALITY
LOAN SERVICE OF
WASHINGTON; PMC
BANCORP, a foreign
corporation and national
association; BANK OF
AMERICA, NA. Successor by
Merger to BAC Home Loans
Servicing, LP fka Countrywide
Home Loans Servicing
LP("Bank of America") a
national association and foreign
corporation;
MERSCORP Holdings, Inc., a
foreign corporation;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS,
INC., a foreign corporation;
SELECT PORTFOLIO
SERVICING, INC., a foreign

1 corporation; SAFEGUARD
2 PROPERTIES, LLC, a foreign
3 corporation; E*TRADE, a
4 foreign corporation.

5 Does 1-20
6 Defendants
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22 INTRODUCTION

23 On September 15, 2019, Defendants (except E*Trade) forcibly took
24 permanent, exclusive possession of Plaintiffs' home, without legal title,
25 without a court order, and without a decree in foreclosure. Defendants
26

1 threatened (with the alleged backing of law enforcement) and completely
2 barred Plaintiffs from ever returning to their land. Defendants secretly
3 removed, then disposed of all of Plaintiffs' personal property contained
4 within their home. Defendants thereafter destroyed the home, so it is now
5 unsafe and uninhabitable. It now reeks with a putrid smell that has
6 penetrated the entire interior framework. In addition, the Defendants
7 prevented the home's siding manufacturer from replacing the defective
8 siding pursuant to their warranty protection. Thereafter they issued ten
9 (10) separate notices of trustee sale—all which were later continued.
10
11

12 Defendants [at all times herein while acting in concert] did perform their
13 actions with a singular, determined scheme to take Plaintiff's land in
14 violation of the Deed of Trust Act, the Damage to Land and Property Act,
15 the Fair Debt Collection Act, the Consumer Protection Act, Washington's
16 Foreclosure Fairness Act , the Offering A False Instrument for Recording
17 statute, and the U.S. and Washington Constitutions. Defendants now
18 threaten to launch new foreclosure proceedings. Any such proceedings
19 are barred by applicable stature of limitations and should be enjoined.
20
21
22

23 II PARTIES

24 2.1 Plaintiffs are residents of King County, Washington, and they plead
25 the following allegations, state that those allegations are true of their own
26

1 knowledge, except as to matters stated on information and belief, and as
2 to those matters, they believe them to be true. Plaintiffs are owners of the
3 subject real property in King County, Washington.

4 2.2 Defendants Deutsche Bank National Trust Company and Deutsche
5 Bank National Trust Company as Trustee under the pooling and servicing
6 agreement relating to Impac Secured Assets Corp., Mortgage Pass-
7 Through Certificates, Series 2007-1 is a trust company which is registered
8 not as a foreign entity in Washington state. Deutsche is a securitized trust
9 that owns thousands of mortgage loans and Deutsche Bank National Trust
10 Company acts as the trustee for the trust. It appears that the Lysyy
11 mortgage loan is included in the mortgage loans owned by Defendant
12 Deutsche.

13 2.3. Quality Loan Service Corporation of Washington (QLS) is an SPS
14 agent/trustee who conducts foreclosure actions in the state of Washington.
15 It is a Washington Corporation based in Seattle, WA.

16 2.4 PMC Bancorp is a California corporation whose corporate charter was
17 suspended on 6/1/15.

18 2.5 Bank of America, N.A., (a National Association) Successor by Merger
19 to BAC Home Loans Servicing, LP FKA Countrywide Home Loans
20 Servicing LP ("Bank of America"), operates as a bank. It is based Bank of
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1 America, N.A., Successor by Merger to BAC Home Loans Servicing, LP
2 FKA Countrywide Home Loans Servicing LP ("Bank of America"). Bank of
3 America Corporation (commonly referred to as Bank of America; is an
4 American multinational investment bank and financial services holding
5 company headquartered in Charlotte, North Carolina.
6

7 **2.6** Mortgage Electronic Registration Systems, Inc., is a Delaware
8 Corporation, 2.7 MERS CORP Holdings, Inc. is a privately held corporation
9 that owns and manages the MERS System and all other MERS
10 products—it is a Delaware Corporation
11

12 2.8 Select Portfolio Servicing, Inc., a foreign corporation; based in Salt
13 Lake, Utah, is presently acting as the servicing company for Defendants
14 Deutsche.
15

16 2.9 Defendant Safeguard Properties, LLC ("Safeguard") is a privately held
17 mortgage field services company providing inspection and preservation
18 services for foreclosed properties. Safeguard is headquartered Ohio.
19

20 Plaintiff is informed and believes that Safeguard was acting as
21 Defendants' agent, contractor and/or employee at all relevant times.
22

23 2.10 The true names and capacities of Does 1 through 20, inclusive,
24 whether individual, corporate, partnership, associate or otherwise, are
25 presently unknown to Plaintiffs, who therefore sue said Defendants by
26

1 such fictitious names. Plaintiffs allege, based upon information and belief,
2 that each Defendant is responsible in some manner for the events
3 described therein and is liable to Plaintiffs for the damages they have
4 incurred. Plaintiffs will amend this Complaint to show the true names and
5 capacities of the Doe Defendants when the same have been ascertained.
6

7 8 III. VENUE AND JURISDICTION

9 3.1 This court has jurisdiction over this action and these parties
10 pursuant to RCW 2.08.010 and RCW 4.12.020. Venue in this court is
11 proper because the subject property is located in King County.

12 IV. FACTS ALLEGED

13
14 4.1 Mr. and Mrs. Lysy are the owners of a single family dwelling
15 located at 12921 SE 318th Way, Auburn, WA 98092 which property is
16 further described as:

17
18 LOT 30, RAINIER RIDGE DIVISION NO.
19 II, ACCORDING TO THE PLAT
20 THEREOF RECORDED IN VOLUME 164
21 OF PLATS, PAGES 64 THROUGH 66,
22 RECORDS OF KING COUNTY,
23 WASHINGTON.
24 Tax Parcel # 7137910300

25 4.2 On November 9, 2006, Mrs. Lysy borrowed the amount of \$249,500
26 from PMC Bancorp.

1 4.3 She signed PMC Bancorp's promissory note which was secured by
2 its deed of trust.

3 4.4 PMC Bancorp's residential deed of trust was signed by Mr. and Mrs.
4 Lysyy on November 13, 2006.
5

6 4.5 PMC Bank Corp. and Mortgage Electronic Registration Systems Inc
7 ("MERS") were the grantees designated in the deed of trust.
8

9 4.6 Mrs. Lysyy fell behind on her mortgage payments with PMC Bank
10 Corp when she suffered financial difficulties in 2010.

11 4.7 Since 2010, Bank of America included this notice on each of its
12 monthly statements to her: "this loan has been accelerated."
13

14 4.8 Bank of America sent its notice of default on 6/1/15.

15 4.9 On or about September 15, 2010, BAC Home Loan Service
16 accelerated the mortgage payments and required the remaining
17 balance to be due and payable.
18

19 4.10 Plaintiffs continuously communicated with Bank of America, its loan
20 service agent, in her unsuccessful attempts to reach an agreement to
21 modify the terms of her loan agreement.
22

23 4.11 On 9/14/2011 MERS purported to assign its deed of trust (albeit a
24 defective and legally nullity) to Deutsche Bank National Trust
25 Company, as Trustee.
26

1 4.12 On September 25, 2015, Quality Loan Service of Washington, the
2 purported successor trustee, issued its first notice of trustee sale.

3
4 4.13 Quality Loan Service of Washington thereafter issued nine (9)
5 separate and successive notices of its trustee sale.

6
7 4.14 Quality Loan Service of Washington issued its amended notice of
8 trustee sale on 9/10/2021.

9
10 4.15 On 11/03/2021 Quality Loan Service of Washington issued its last
11 notice of discontinuance of trustee sale.

12
13 4.16 The parties engaged in Washington statutory mediation in 2016 and
14 2022.

15
16 4.16 The trustee refused to produce essential documents requested by
17 the mediator, a HUD Certified Housing Counselor.

18
19 4.17 The Beneficiary/trustee failed to act in good faith throughout the
20 mediation proceedings.

21
22 4.18 The mediations were terminated without a successful resolution.

23
24 4.19 On October 15, 2019, SPS and Safeguard Properties and/or its
25 agents illegally entered Mr. & Mrs. Lysyy's property, without notice, and
26 changed the locks.

1 4.20 On 10/11/2019, Mr. & Mrs. Lysy filed their Chapter 13 petition for
2 bankruptcy relief in the United States Bankruptcy Court, Western District of
3 Washington (Case # 19-13736).

4
5 4.21 On 10/11/2019 a copy of Mr. & Mrs. Lysy filed Chapter 13 petition
6 proceedings were faxed to Quality Loan Service of Washington.

7
8 4.22 On 10/11/2019, Quality Loan Service of Washington conferred
9 with the bankruptcy trustee's office regarding Mr. & Mrs. Lysy filed -
10 Chapter 13 petition proceedings.

11
12 4.23 On 10/11/2019, the Bankruptcy Court's automatic stay order
13
14 restrained defendants from pursuing its claims against Mr. & Mrs. Lysy

15
16 4.24 Defendants did not obtain a court order to remove the Court's
17 10/11/2019 stay order.

18
19 4.25 Based on information and belief, after 10/11/2019, Defendants
20 locked Mr. & Mrs. Lysy out of their home, then SPS produced a
21 photographic of its lockbox on the Lysy property's front door handle, for
22 defendant's benefit.

23
24 4.26 Safeguard Properties locked all other entrances to the property.
25
26

1 4.27 On October 28, 2010, Safeguard Properties prepared a record of its
2 illegal entrance to the property.

3
4 4.28 When Mrs. Lysyy sought entrance for the purpose of retrieving some
5 of her personal property, agents/employees of Safeguard Properties
6 ordered her to vacate the property and failing that, they threatened to call
7 law enforcement.
8

9 4.29 The trustee and its agents ultimately removed and disposed of all of
10 Mr. and Mrs. Lysyy's personal property that were located within the home.
11

12 4.30 Since the trustee and its agents illegally seized Mr. and Mrs. Lysyy's
13 real property, it has refused to maintain and protect the property from
14 almost total deterioration.
15

16 4.31 With regard to the real property, the roof is damaged and it has
17 allowed interior damage; the gutters are leaking; the siding is damaged
18 with resulting wood rot and mold; the shrubbery is overgrown and has
19 caused wood destroying insects to invade the property; the deck and its
20 accessories have incurred wood rot and moisture damage; the back step
21 railing is defective and dangerous; there is exposed electric wiring--a
22 hazard; there is insulation damage, missing vapor barrier sheeting,
23 damaged insulation to the cooling ducts, damaged insulation to the copper
24
25
26

1 supply plumbing in the crawlspace; the attic reveals roof leaks; the water
2 heater's T-P drain line has been cut so as to create a safety hazard; there
3 are roof leaks to the ceiling in the master bath and the hall bath; the
4 drywall ceiling is separating at the seam in the kitchen, and the hardwood
5 flooring in the family room and hallway has swelled so as to make the
6 flooring wavy.

7
8
9 4.32 The above-described property defects, safety hazards, and
10 mold/insect infestations were caused by Defendants' lack of maintenance
11 so as to render the property uninhabitable.
12

13 4.33 Defendants further refused to maintain the lawn.
14

15 4.34 Defendants' prevented plaintiffs from coming onto the property in
16 order to maintain the property.
17

18 3.35 The City of Auburn issued a citation regarding the overgrown
19 vegetation on the property.
20

21 4.36 With respect to the following causes of action, all of the
22 defendants, except E*trade, performed the above-described activities
23 jointly and in concert against the plaintiffs.
24

25 4.37 Plaintiffs obtained a HELOC loan from National City Bank in 2007.
26

1 4.38 Plaintiffs defaulted on the HELOC loan in 2009.

2 4.39 National City Bank's successor in interest assigned the HELOC loan
3 to E*TRADE in 2020.
4

5
6 **FIRST CAUSE OF ACTION: CIVIL CONSPIRACY**

7 1.1 Plaintiffs incorporates herein by reference, as though fully set forth,
8 each and every allegation and statement made above.
9

10 1.2 Defendants, the foreclosing defendants, except E*Trade, all
11 conspired/acted together to accomplish an unlawful purpose as they
12 schemed to and did seize plaintiffs' property unlawfully and thereafter
13 initiated unlawful foreclosure proceedings against Mr. & Mrs. Lysyy.
14

15 1.3 As a result, defendants were damaged in an amount to be proven at
16 trial.
17

18 **SECOND CAUSE OF ACTION: CONTINUING INTENTIONAL**
19 **TRESPASS**
20

21 2.1 Plaintiffs reallege and incorporates by reference the allegations in
22 each of the preceding paragraphs.
23

24 2.2 The Defendants, either individually or through their agents,
25 contractors and/or employees entered Plaintiff's land, without their
26 permission or authorization.

1 2.3 The Defendants intentionally invaded the Plaintiff's land; disturbed
2 their possessory interest in the property and denied their right to
3 exclusive possession of the land.

4
5 2.4 It was reasonably foreseeable that the defendants' action would
6 disturb their possessory interests.

7
8 2.5 The Defendants went onto Plaintiffs' residential home, removed
9 valuable property from their home, wrongfully caused waste and injury to
10 their property, and/or wrongfully injured personal property and
11 improvements to the real estate.

12
13 2.6 Plaintiffs were damaged and continue to be damaged as a direct and
14 proximate result of the actions of the Defendants, either individually or
15 through their agents, contractors and/or employees.

16
17 2.7 Plaintiffs were wrongfully dispossessed of their land by the
18 Defendants and have suffered resulting damages.

19
20 2.8 Plaintiffs are now entitled to an order (a) ejecting the Defendants from
21 their Property and (b) quieting title to their Property.

22
23 2.9 Plaintiffs are also entitled to a money judgment for their attorney fees
24 and costs pursuant to RCW 7.28.083.

25 **THIRD CAUSE OF ACTION: CONTINUING NEGLIGENT TRESPASS**

26
3.1 Plaintiffs reallege and incorporate by reference the allegations in
each of the preceding paragraphs.

1 3.2 As an alternative to their cause of action for intentional trespass,
2 Plaintiffs allege the Defendants negligently trespassed on their Property.
3 The Defendants owe Plaintiffs a duty to refrain from entering onto Plaintiffs'
4 land and to refrain from damaging the land; and the Defendants' acts and
5 omissions constitute a breach of that duty.

6 3.3 As a direct and proximate cause of the Defendants' negligent
7 trespass, Plaintiffs have suffered and continue to suffer actual and
8 substantial damages in an amount to be proven at trial.

9
10 **FOURTH CAUSE OF ACTION: DECLARATORY RELIEF THAT**
11 **DEFENDANTS VIOLATED RCW 9A.82.010 4(e) [THEFT]**

12 4.1 Plaintiffs reallege and incorporate by reference the allegations in
13 each of the preceding paragraphs.
14

15 4.2 Defendants wrongfully deprived Mr. & Mrs. Lysy of their Property
16 and/or equity therein, by taking control of their Property, under color of
17 Washington law (avowedly under a wrongful claim of title).
18

19 4.3 Defendants' recording of a false assignment belies an assertion that
20 such claim was made in good faith.
21

22 4.4 The Defendants continue to and intend to deprive Mr. & Mrs. Lysy' of
23 their property in violation of *RCW 9A.56.030 (1)(a)*
24

25 **FIFTH CAUSE OF ACTION: CONVERSION**
26

1 5.1 Plaintiffs reallege and incorporate by reference the allegations in
2 each of the preceding paragraphs.

3
4 5.2 The Defendants, either individually or through their agents,
5 contractors and/or employees entered Plaintiff's property and home
6 without their permission or authorization.

7
8 5.3 The Defendants, either individually or through their agents,
9 contractors and/or employees took, removed and disposed of Plaintiffs'
10 numerous possessions, many of which were priceless, irreplaceable
11 personal possessions.

12
13 5.4 The Defendants, either individually or through their agents,
14 contractors and/or employees were on notice, with knowledge, that they
15 had no right or authority to enter onto Plaintiffs property, break into their
16 home, seize the home and property from Plaintiffs, then remove/dispose
17 of their possessions.

18
19 5.5 Defendants are liable for the damages suffered by the Plaintiffs, the
20 amount of which will be proven at trial.

21 **SIXTH CAUSE OF ACTION: INVASION OF PRIVATE AFFAIRS AND**
22 **RESIDENCE**

23
24 6.1 Plaintiffs reallege and incorporate by reference the allegations in
25 each of the preceding paragraphs.

26 6.2 The Defendants, either individually or through their agents,

1 contractors, and/or employees entered Plaintiffs property and home and
2 disposed of Plaintiff's personal belongings without permission or
3 authorization.
4

5 6.3 At all times, Plaintiffs had a legitimate and reasonable expectation of
6 privacy in their home and with regard to their personal belongings which
7 were located therein.
8

9 6.4 Defendants, each and every one, took possession of Plaintiffs'
10 property to promote Defendants intended scheme to deprive Plaintiffs of
11 their quiet enjoyment of their own property.
12

13 6.5 In the course of promoting their unlawful scheme, Defendants
14 engaged in an unlawful invasion of Mr. & Mrs. Lysy's private affairs and
15 their home by taking exclusive possession of the real property and the
16 home's contents.
17

18 6.6 Plaintiffs were harmed by the above acts of intrusion into their
19 private affairs by Defendants' taking possession of and distributing all
20 the Plaintiffs' contents inside their home to unknown third parties.
21

22 6.6 Plaintiffs suffered harm of fear, humiliation, anxiousness,
23 apprehension and embarrassment as a result of the unlawful disclosure
24 of Plaintiffs' private matters to the Defendants and other unknown 3rd
25 parties.
26

1 6.7 The intrusion was highly offensive to Plaintiffs and this intrusion would
2 be highly offensive to a reasonable person.

3
4 6.8 Plaintiffs were damaged, the amount of which will be proven at trial.

5 **SEVENTH CAUSE OF ACTION: DECLARATORY RELIEF THAT**
6 **DEFENDANTS VIOLATED THE BANKRUPTCY COURT'S**
7 **AUTOMATIC STAY ORDER**

8 7.1 Plaintiffs reallege and incorporate by reference the allegations in
9 each of the preceding paragraphs.

10 7.2 Prior to the date Defendants seized Plaintiffs' property as above-
11 described, Defendants were served with a copy of Plaintiffs' filed
12 bankruptcy proceedings.

13
14 7.3 Based on information and belief, Defendants conferred with the
15 bankruptcy clerk regarding the bankruptcy proceedings filed by Plaintiffs,
16 however, they subsequently seized Plaintiffs' real and personal property.

17
18 7.4 Defendants intentionally violated the Bankruptcy court's automatic
19 stay order.

20 **EIGHTH CAUSE OF ACTION: STATUTORY LIABILITY FOR TREBLE**
21 **DAMAGES AND ATTORNEY FEES AND COSTS PURSUANT TO**
22 **RCW 4.24.630, RCW 19.86**

23 8.1 Plaintiffs reallege and incorporate by reference the allegations in
24 each of the preceding paragraphs.

25 8.2 Defendants entered Plaintiffs' land in violation of the Damage to
26

Land and Property Act (RCW 4.24.630) .

8.3 Defendants entered Plaintiffs' land despite MERS's failure to describe the property interest it intended to assign to the Deutsche defendants.

8.4 MERSs' attempt to assign its purported deed of trust is a nullity.

8.4 MERS did not own a beneficial interest in the deed of trust; therefore it did not have the authority, either as a mortgagee or an assignor, to cause an assignment--therefore its attempted assignment is void.

8.5 Since Deutsche Bank National Trust never held a legally, valid assignment of the deed of trust and note, it cannot foreclose on the Plaintiffs' property

8.6 Thereafter, Deutsche Bank National Trust Company did not have the requisite authority to appoint a successor trustee because it was not the "beneficiary" as defined under the Deed of Trust Act.

8.7 The statute requires this document to be signed by the actual beneficiary (*RCW 61.24.010(2)*)

8.8 Defendants' attempted foreclosure proceedings were done

1 in violation of the Deed of Trust Act.

2 8.9 Defendants' violations of the Damage to Land and Property

3 Act and the Deed of Trust Act constitute a per se violation of
4 each statute.
5

6 8.10 When an unfair or deceptive act or practice is alleged

7 under 19.86.020, a claimant may establish that the act or
8 practice is injurious to the public interest because it:
9

- 10 (1) Violates a statute that incorporates this chapter;
11 (2) Violates a statute that contains a specific legislative
12 declaration of public interest; or
13 (3) (a) Injured other persons; (b) had the capacity to injure
other persons; or (c) has the capacity to injure other
persons

14 8.11 Because of numerous defects in all of the documentation being

15 relied upon in support of the current non-judicial foreclosure
16 proceedings, Defendants do not have the lawful authority to non-
17 judicially foreclose on the subject Property.
18

19 8.12 These actions constitute unfair and deceptive acts by all the
20

21 Defendants, which were done in trade or commerce -- the
22 ownership and loan servicing of a mortgage loan plus initiating non-
23 judicial foreclosures. Their unlawful actions effect the public
24 interest because (1) all of the Defendants had and have the
25 capacity to commit the same unfair and deceptive acts against
26

1 others, and (2) they have previously engaged in this same behavior
2 of committing unfair and deceptive acts against others. (RCW
3 19.86.093(3).
4

5 8.12 Any future foreclosure notices and attempted foreclosure sales by
6 Defendants, herein will be wrongful, without legal effect and would
7 be void.
8

9 8.13 Defendants cannot escape liability for the damages they have
10 intentionally and wantonly inflicted upon Mr. & Mrs. Lysy, by
11 merely purporting to comply with the Deed of Trust Act, when in
12 this case, they acted without lawful authority and failed to comply
13 with the statutory requirements.
14

15 8.14 Mr. & Mrs. Lysy were damaged, the amount of which will be
16 proven at trial.
17

18 **NINETH CAUSE OF ACTION: FAIR DEBT COLLECTION PRACTICES**
19 **ACT**

20 9.1 Plaintiffs reallege and incorporate by reference the allegations
21 in each of
22 the preceding paragraphs.
23

24 9.2 One or more of the Defendants herein are debt collectors as
25 defined by the Fair Debt Collection Practices Act ("FDCPA") because
26

1 their principal business is in the enforcement of security interests in
2 property.

3 9.3 Said Defendant(s) violated 15 U.S.C. § 1692f when they took
4 nonjudicial action to effect Plaintiffs' dispossession of their home and
5 personal property, despite having no right to their possession of the
6 home or personal property.
7

8 9.4 Because no order had been entered giving any Defendant the right
9 to possess Plaintiffs' property, and because Plaintiffs' property was
10 known to be occupied and was well-secured and maintained, no
11 Defendant had a right to enter Plaintiffs' property, change Plaintiffs'
12 locks, and remove their possessions within the property.
13

14 9.5 Plaintiffs suffered actual damages as a result of Defendants'
15 unlawful actions

16 **TENTH CAUSE OF ACTION: VIOLATION OF WASHINGTON'S**
17 **FORECLOSURE FAIRNESS ACT**
18

19 10.1 Plaintiffs reallege and incorporate by reference the allegations in
20 each of

21 the preceding paragraphs.
22

23 10.2 Defendants failed or refused to follow the foreclosure requirements
24 set forth in Washington's Foreclosure Fairness Act.
25
26

1 10.3 Defendants did not participate in good faith during the mediation
2 process.

3 10.4 Defendants refused to address the undisputed factual issues so as
4 to enable the parties to reach a resolution.
5

6 10.5 Defendants still attempted to justify their wrongful conduct
7 regarding the injuries and damages that they unlawfully inflicted on
8 Mr. & Mrs. Lysyy.
9

10 10.6 Defendants still did not provide an explanation in sufficient detail
11 for a reasonable person to understand as to why Mr. & Mrs. Lysyy
12 should not be granted an offset in an attempt to reach a loss
13 mitigation/loan modification agreement.
14

15 10.7 Defendants still refuse to recognize the injuries Plaintiffs had
16 sustained so as to qualify them for an offset that would tend to
17 compensate them as a result of Defendants' unlawful acts.
18

19 10.6 The Defendants' conduct constitutes a failure to mediate in good
20 faith (Section (7)), and creates a per se violation of Washington's
21 Consumer Protection Act, RCW 19.86. RCW 61.24.135(2).
22

23 **ELEVENTH. CAUSE OF ACTION: WRONGFUL**
24 **FORECLOSURE**
25
26

1 11.1 Plaintiff incorporates herein by reference, as though fully set forth,
2 each and every allegation and statement made in each previous
3 section.

4 11.2 Defendants knew or should have known that they were required
5 to strictly comply with the Washington Deed of Trust Act("DOTA"),
6 RCW 61.24 et. seq. before initiating foreclosure proceedings against
7 Mr. & Mrs. Lysyy.
8

9 11.3 Defendants knew or should have known that MERS' sole
10 purpose was to be named as a beneficiary of the subject deed of trust,
11 even though MERS never met the statutory definition of a beneficiary
12 (RCW 61.25.005(2)).
13

14 11.4 Defendants knew or should have known that it was unlawful to
15 take possession of Mr. & Mrs. property prior to completing the
16 foreclosure process (*Jordan v. Nationstar Mortgage, LLC*, 185
17 *Wash.2d* 876 (2016)).
18

19 11.5 Defendants, by deception and trickery, unlawfully took
20 possession of Mr. & Mrs. Lysyy's property and they unlawfully initiated
21 foreclosure proceedings .
22
23
24
25
26

1 11.6 Defendants did not have the power to initiate foreclosure
2 proceedings and therefore the current proceedings are void, not
3 merely voidable.

4 11.7 Defendants' actions were material violations of the Deed of Trust
5 Act which do constitute wrongful foreclosure actions; therefore
6 Defendants are liable for damages caused by and that flow from the
7 current wrongful foreclosure proceedings in an amount to be proven at
8 trial.
9
10

11 ***TWELTH CAUSE OF ACTION: BREACH OF THE DUTIES***
12 ***UNDER THE DEED OF TRUST ACT AND IMPLIED COVENANT***
13

14 12.1 Plaintiffs incorporate herein by reference, as though fully set forth,
15 each and every allegation and statement made in each previous section.

16 12.2 Defendants were required to act in good-faith with regard to their
17 demand for payment and subsequent tendering of each of the ten (10)
18 foreclosure proceedings initiated against Mr. & Mrs. Lysyy.
19

20 12.3 Defendants violated their duties of good faith by entering into a
21 prohibited relationship with MERS and then proceeding to initiate unlawful
22 foreclosure proceedings against Mr. & Mrs. Lysyy as above described.
23

24 12.5 Defendants purported to assign a defective deed of trust (it did not
25 describe a property to be assigned) .
26

1 12.6 Based on information and belief, Defendants purported to assign Mr.
2 & Mrs. Lysyys' note on some unknown date to a party other than to
3 Deutsche's trustee.

4 12.7 Based on information and belief, Defendants purported to separate
5 the note from the deed of trust when the deed of trust is required to follow (
6 *Mary had a little lamb and its sheep was sure to follow*).
7

8 12.7 Defendants further breached the implied covenant of good faith and
9 fair dealing with regard to all of their transactions involved herein.
10

11 **THIRTEENTH CAUSE OF ACTION: DECLARATORY RELIEF THAT**
12 **DEFEDANTS FAILED TO INITIATE LAWFUL FORECLOSURE**
13 **PROCEEDINGS WITHIN 6 YEARS**

14 13.1 Plaintiffs incorporate herein by reference, as though fully set forth,
15 each and every allegation and statement made above.

16 13.2 Mrs. Lysyy defaulted on her loan obligation to PMC Bank in 2010.
17

18 13.3 Defendants, to date, have not initiated lawful, foreclosure
19 proceedings against Mr. & Mrs. Lysyy.

20 13.5 Accordingly, Defendants are barred by the applicable statute of
21 limitations from proceeding with any foreclosure proceedings against Mr. &
22 Mrs. Lysyy because they did not initiate any lawful actions against them
23 within 6 years.
24
25
26

FOURTEENTH CAUSE OF ACTION: DECLARATORY RELIEF THAT DEFEDANT E*TRADE FAILED TO INITIATE LAWFUL FORECLOSURE PROCEEDINGS WITHIN 6 YEARS.

14.1 Plaintiffs incorporate herein by reference, as though fully set forth, each and every allegation and statement made above.

14.2 Mr. & Mrs. Lysyy defaulted on their loan obligation to National City Bank in 2009.

14.3 National City Bank's successor assigned the loan to E*TRADE on or about 6/24/2020.

14.4 Defendant E*TRADE to date, has not initiated lawful, foreclosure proceedings against Mr. & Mrs. Lysyy.

14.5 Accordingly, Defendant E*TRADE is barred by the applicable statute of limitations from proceeding with any foreclosure proceedings against Mr. & Mrs. Lysyy because it did not initiate any actions against them within 6 years.

FIFTHTEENTH CAUSE OF ACTION: INFLICTION OF EMOTIONAL DISTRESS (OUTRAGE)

15.1 Plaintiffs incorporate herein by reference, as though fully set forth, each and every allegation and statement made above

15.2 Mr. & Mrs. Lysyy suffered severe shock and anguish when Defendants locked them out of their home, threw them to the street,

1 rendered them homeless, and separated them forever from their personal
2 belongings.

3 15.3 Their severe shock was just as real as that sustained by a child who
4 suddenly becomes an orphan.
5

6 15.3 Mr. & Mrs. Lysy sustained great fear and apprehension on each
7 date that Defendants initiated one of their ensuring ten (10) separate
8 foreclosure actions against them.
9

10 15.4 Defendants, their agents and assigns have negligently, recklessly
11 and/or intentionally engaged in extreme and outrageous conduct toward
12 the plaintiffs which caused them severe anguish and emotional distress,
13 injury to their reputation, personal humiliation, mental suffering, and have
14 otherwise cause them to suffer injuries to person and property.
15

16 **SIXTEENTH CAUSE OF ACTION: DECLARATORY RELIEF**
17 **THAT EQUITABLE LACHES APPLIES IN THIS CASE**

18 16.1 Plaintiffs incorporate herein by reference, as though fully set forth,
19 each and every allegation and statement made above.
20

21 16.2 Defendants initiated ten (10) separate foreclosure proceedings, but
22 later discontinued each one of them.
23

24 16.3 Defendants should be barred from raising any future claim against
25 Mr. & Mrs. Lysy due to an unreasonable delay in the pursuit of their
26 various claims to date.

1 16.4 As a direct and proximate result of Defendants' misconduct (laches),
2 Mr. and Mrs. Lysyy were damaged in an amount to be proven at time of
3 trial.

4
5 16.5 Defendants should be estopped from denying their liability for Mr. and
6 Mrs. Lysyys' resulting injuries and damages.

7 **SEVENTEENTH CAUSE OF ACTION: DECLARATORY RELIEF**
8 **QUIETING TITLE**

9 17.1 Plaintiffs incorporate herein by reference, as though fully set forth,
10 each and every allegation and statement made above.

11
12 17.2 Mr. and Mrs. Lysyy own the subject property and they should be
13 granted declaratory relief which confirms their ownership and ultimate
14 possession.

15
16 17.3 For the reasons set forth above title should be quieted so that
17 Defendants' claimed security interests are now null and void.

18
19 17.4 Title should be quieted in favor of Mr. and Mrs. Lysyy.

20 **EIGHTEENTH CAUSE OF ACTION: DECLARATORY RELIEF**
21 **THAT DEFENDANTS VIOLATED DUE PROCESS RIGHTS**
22 **GURANTEED PLAINTIFFS BY THE WASHINGTON AND U.S.**
CONSTITUTIONS

23 18.1 Plaintiffs incorporate herein by reference, as though fully set forth,
24 each and every allegation and statement made above.

1 18.2 Defendants putatively abused a statutory scheme which provided
2 them with efficient procedural remedies, without judicial oversight.

3 18.3 Defendant's misused Washington's efficient statutory scheme
4 against Mr. & Mrs. Lysy so as to deny them their rights to life, liberty, or
5 property, without due process.
6

7 18.4 Plaintiffs' fundamental rights are guaranteed by the Washington and
8 U.S. constitutions.
9

10 18.5 As a result of Defendants' unlawful taking without due process, Mr. &
11 Mrs. Lysy have been damaged in an amount to be proven at trial.
12

13 **NINETEENTH CAUSE OF ACTION: RESTRAINING ORDER/
14 PRELIMINARY INJUNCTION**

15 19.1 Plaintiffs incorporate herein by reference, as though fully set forth,
16 each and every allegation and statement made above.
17

18 19.2 Defendants should be granted an order temporarily restraining the
19 defendants' future foreclosure proceedings, if any, because the trustee
20 lacks authority to conduct the sale for multiple reasons as set forth above.
21

22 18.3 Defendants violated RCW 40.16.030 by knowingly recording, or
23 causing to be recorded and/or relying on the Assignment wherein MERS
24 falsely and without proper authority purports to assign the Deed of Trust to
25 Deutsche Bank Trust Company, as Trustee.
26

1 18.4 Moreover, the Assignment was defective because it did not describe
2 a property to be assigned so it is a complete nullity.

3 18.5 MERS did not have authority to record such an assignment because
4 it is not and cannot be a beneficiary within the meaning of RCW
5 61.24.005(2).
6

7 18.6 Mr. & Mrs. Lysy are likely to prevail on one or more of their claims
8 set forth above.
9

10 18.7 *The Deed of Trust Act sets out a more liberal criteria for obtaining a*
11 *restraint of the sale. RCW 61.24.130.*

12 18.8 *A sale may be restrained on "any proper legal or equitable ground".*
13 *RCW 61.24.130(1)*
14

15 18.9 An injunction is appropriate because the Deed of Trust Act "must be
16 construed in favor of borrowers because (1) of the relative ease with which
17 lenders can forfeit borrowers' interests and (2) the lack of judicial oversight
18 in conducting non-judicial foreclosure sales.
19

20 18.10 There is a powerful, important public interest that is served by
21 granting an injunction so as to prevent unfair or deceptive practices from
22 continuing unchecked.
23

24 **WHEREFORE**, Plaintiffs respectfully requests that this Honorable Court
25 grant the
26 following relief:

1. Declare that Defendants unlawfully took possession of Mr. & Mrs. Lysyys' home and personal belongings, without title, without foreclosure or without a court order (Jordan v. Nationstar Mortgage)
2. Declare that Defendants wrongfully damaged/removed Mr. & Mrs. personal and real property (RCW 4.24.630)
3. Declare that Defendants wrongfully engaged in unfair or deceptive acts or practices which caused injury to Mr. & Mrs. Lysyys. (Chapter 19.86 RCW)
4. Declaring MERS's Assignment of Deed of Trust fraudulent, illegal, and void;
5. Declare further that the alleged assignment by MERS is void and a nullity for its failure to describe any property which it purported to be assigned;
6. Declare that the alleged assignee of the deed of trust is not the same party that is alleged to be the transferee of the note;
7. Declare that the alleged assignment disconnected the deed of trust and note, and is void;
8. Judgment for declaratory and injunctive relief as to all applicable causes of action;
9. Judgment for any penalty, forfeitures, fine, or other relief allowed by statute for any other act or failure to act which may, due to lack of discovery thus far, be discovered by this Court in the course of this proceeding;
10. Declare that the Plaintiffs are the owners of the property;
11. Quiet title in favor of Plaintiffs as against all defendants;
12. Declare that Defendants violated a bankruptcy court's stay order when they took possession of the Plaintiffs' real and personal property;
13. Declare that Defendants' legal remedies are barred by laches and the applicable statute of limitations;
14. Judgment assessing a civil penalty against each Defendant of \$7,500 for each and every violation of RCW 19.86.020
15. An order to show cause why a writ of prohibition should not be entered against Quality Loan Service of WA preventing it from selling Plaintiffs' real property;
16. Statutory fees and costs incurred herein
17. Award the Plaintiff money damages from Defendants for all monetary damages, plus statutory treble damages; reasonable attorneys' fees and such further relief as is just and equitable;
18. Such other relief this Honorable Court deems fair and just.

1 The undersigned certify under penalty of perjury under the laws of the
2 State of Washington that I/we and each of us is a plaintiff in the above-
3 entitled action; I/we and each of us have read the foregoing statements
4 contained in this document, know the contents thereof and believe the
5 same to be true, except those matters therein stated upon information and
6 belief, and as to those matters I/we believe them also to be true.
7
8
9
10
11
12

13 DATED this 19 day of July, 2022.



TATYANA LYSYY, Plaintiff
4109 68TH AVENUE E
FIFE, WA 98424
Phone: 206-293-0957

18 DATED this 19 day of July, 2022.



VASILIY LYSYY, Plaintiff
4109 68TH AVENUE E
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Phone: 206-293-0957